

Remarks

By the present communication, claims 40-41 are canceled without prejudice. Applicants reserve the right to pursue the subject matter of the canceled claims in one or more timely filed divisional or continuation applications. Upon entry of the present amendment, claims 24, 27-28, 38-39, 42-46 will be pending and under examination in the application.

In the Office Action mailed May 1, 2008 Applicants were required to make a species election. The Examiner states that the application contains claims directed to the following patentably distinct species:

- (A) protein of SEQ ID NO: 2 or a nucleic acid encoding SEQ ID NO: 2; and
- (B) protein of SEQ ID NO: 9 or a nucleic acid encoding SEQ ID NO: 9.

As a preliminary matter, Applicants note that the sequence of SEQ ID NO: 2 is a nucleotide sequence (not a protein sequence), which encodes the protein of SEQ ID NO: 3. Therefore, for the purpose of the species election requirement, Applicants assume the Examiner intended that Species (A) is the protein of SEQ ID NO: 3 or a nucleotide encoding SEQ ID NO: 3.

In response to the Restriction Requirement, Applicants hereby elect the Species (B) protein of SEQ ID NO: 9 or a nucleic acid encoding SEQ ID NO: 9, without traverse. The Office Action also states that the Applicants were required to identify the claims encompassing the elected species. Applicants submit that claims 24, 27, 28, 38, 39, and 42-46 read upon the elected species.

If there are any questions regarding these remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

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Respectfully submitted,

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